

VETERANS' HOUSING AMENDMENTS OF 1991

NOVEMBER 6, 1991.—Ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 939]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 939) to provide eligibility to members of the Selected Reserve for the veterans home loan guaranty program, having considered the same, reports favorably thereon, with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. ELIGIBILITY OF SELECTED RESERVE.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

“(5)(A) The term ‘veteran’ also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

“(B) The term ‘Selected Reserve’ means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code.”; and

(2) in section 3702(a)(2), by adding at the end the following:

“(E) Each veteran described in section 3701(b)(5) of this title”.

(b) FEES.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out “and” at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost."

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

SEC. 2. ATTORNEY FEES IN CONNECTION WITH CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROCEEDINGS.

(a) IN GENERAL.—Section 5904(c) of title 38, United States Code, is amended—

(1) by striking out "In" at the beginning of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), in"; and

(2) by adding at the end the following new paragraph:

"(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary."

(b) EFFECTIVE DATE.—Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act.

SEC. 3. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a demonstration project under this section during fiscal years 1993 and 1994, at not fewer than two but not more than 10 regional offices, for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) REPORT.—The Secretary shall transmit a report to the Congress no later than December 31, 1994, containing a description of the results of the implementation of the project carried out under this section and shall continue to make annual reports to the Congress with respect to the default rate and other information concerning the loans guaranteed under this section.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

(a) AUTHORITY.—Section 3720 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of loans and installment contracts secured by real property made in connection with the sale of properties acquired under this chapter."

(b) TREATMENT OF PROCEEDS.—Section 3733(e) of title 38, United States Code, is amended by inserting ", and the amount received from the sale of securities pursuant to the authority under section 3720(h)," after "subsection (a)(1) of this section".

SEC. 5. WAIVER OF INDEBTEDNESS AND SETTLEMENT OF CLAIMS.

(a) IN GENERAL.—Section 5302 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f) A waiver under this section of payment of an indebtedness or of recovery of a payment or an overpayment (including interest thereon), and the forgoing of collection of an amount by the United States in the settlement of a claim with respect to any benefit provided to a veteran or other eligible person under any of the laws administered by the Department, shall be treated as a payment of benefits for the purposes of section 5301(a)."

(b) APPLICATION.—The amendment made by subsection (a) applies to all waivers made under section 5302 of title 38, United States Code, and to all amounts forgone by the United States in the settlement of a claim with respect to any benefit provided to a veteran or other eligible person under any of the laws administered by the Department of Veterans Affairs, without regard to whether a waiver was made or an amount foregone before, on, or after the date of enactment of this Act.

SEC. 6. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out "3102" and inserting in lieu thereof "5302".

Amend the title so as to read:

"A bill to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes."

INTRODUCTION

On March 14, 1991, the Subcommittee on Housing and Memorial Affairs held a hearing on the implementation of Public Law 101-237 as it applied to debt waivers. This law, which became effective December 18, 1989, revised the standards under which waivers could be granted in order to overcome administrative interpretations which deprived veterans of the relief which Congress intended to provide. Testimony was received from representatives of the Department of Veterans Affairs, the Disabled American Veterans, the Paralyzed Veterans of America, the Vietnam Veterans of America, the Veterans of Foreign Wars and several public witnesses. In response to the issues and concerns raised at the hearing, the Chairman of the Subcommittee, the Honorable Harley O. Staggers, Jr., introduced H.R. 2771, a bill to remove limitations on payment of attorney fees in cases in which the United States is seeking to collect an indebtedness to the United States arising out of a housing loan guaranteed or insured by the Department of Veterans Affairs.

On May 2, 1991, the Subcommittee on Housing and Memorial Affairs held an oversight hearing on the Department of Veterans Affairs Home Loan Guaranty Program. The Subcommittee also heard testimony on two bills, H.R. 939, a bill to extend home loan eligibility to reservists and members of the National Guard who have served six years, and H.R. 1384, a bill which would require the Secretary to establish a demonstration Adjustable Rate Mortgage (ARMs) program. Statements were received from representatives of the Department of Veterans Affairs, the Disabled American Veterans, the Non-Commissioned Officers Association, the Paralyzed Veterans of America, the Veterans of Foreign Wars, the Reserve Officers Association, the National Guard Association, the Enlisted Association of the National Guard, the Navy Reserve Association, the National Association of Homebuilders, the National Association of Realtors, the Manufactured Housing Institute and the Mortgage Bankers Association.

On July 18, 1991, the Subcommittee met and unanimously recommended that H.R. 939 be amended to include the provisions of H.R. 1384, H.R. 2771, an amendment to permit the Secretary of Veterans Affairs to guaranty certain certificates sold to investors, and an amendment to clarify that waivers of debts or overpayments shall be treated in the same manner as other veterans benefits for taxation purposes.

On July 23, 1991, the full Committee met and unanimously recommended that H.R. 939, as amended, be reported to the House.

SUMMARY OF THE BILL

The reported bill would:

(1) Expand entitlement to the Department of Veterans Affairs Home Loan Guaranty Program to members of the National Guard and Reserve who have served at least six years, and either receive an honorable discharge or continue to serve in the Guard or Reserves.

(2) Permit attorneys to represent and charge a reasonable fee in connection with any proceeding before the Department arising out of a loan guaranty indebtedness.

(3) Establish a two-year pilot program during fiscal years 1993 and 1994 on Adjustable Rate Mortgages (ARMs) at no less than two, but no more than ten, VA regional offices. Require the Secretary of Veterans Affairs to submit a report to the Congress on the pilot program no later than December 31, 1994, and annually thereafter.

(4) Clarify that waivers of debts or overpayments shall be treated in the same manner as other veterans benefits for taxation purposes.

(5) Authorize the Department to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37 of title 38, United States Code.

BACKGROUND AND DISCUSSION OF THE BILL -

HOME LOAN GUARANTY PROGRAM

The Home Loan Guaranty Program was established under the Servicemen's Readjustment Act of 1944 (P.L. 78-346). As World War II drew to a close, Congress sought ways to ease the economic and sociological readjustment of returning servicemen and women to civilian life. The program was an innovative means of affording veterans favorable credit which would allow them to purchase a home, business or farm. Many of these veterans, because of their service in the armed forces, had missed an opportunity for establishing personal credit or for accumulating enough money for a substantial downpayment on a home. By utilizing the guaranty of the United States, these veterans were able to enter the homebuying market on a comparable level with their nonveteran counterparts.

Although the objectives of the legislation were specific to the readjustment of returning veterans, rather than influencing the economy as a whole, the Home Loan Guaranty Program, as a by-product, created an excellent investment outlet for the large pool of savings that had been accumulated by the general population during World War II. Channeling this investment capital into a productive peacetime activity was perceived as a means of stimulating the economy and averting to some degree the possibility of post-war depression. Under the original program, guaranties could be made for up to fifty percent of the loan, not to exceed \$4,000.

There was a 20-year maximum on repayment terms, and a maximum four percent interest rate. The Department of Veterans Affairs (DVA) may presently guaranty fifty percent of the loan's value for loans under \$45,000 and forty percent for loans over \$45,000 with a maximum guaranty of \$36,000 and a minimum guaranty of \$22,500. The passage of P.L. 101-237 allowed loans above \$144,000 to be guaranteed at a rate of twenty-five percent of the loan's value up to a maximum guaranty of \$46,000.

Since the inception of the Home Loan Guaranty Program in 1944, over 13 million veterans have received DVA-backed mortgage assistance. More than two-thirds of these loans have been repaid. The program has been enormously successful in terms of helping veterans become homeowners and has proved to be a powerful stimulus to the nation's economy. Over the years, Congress has enacted many changes to the program to enhance its viability, and to respond to developments in the economy and to changes in the needs of veterans. For example, there is now no delimiting date for a veteran to make use of this benefit, and entitlement may be regained once the veteran has paid off the initial loan in full and disposed of the property. The most recent changes broadly restructured the program. These changes were contained in Public Law 101-237, the Veterans' Benefits Amendments of 1989, and Public Law 101-25, the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, which made all Persian Gulf veterans eligible for loan guaranty benefits with active duty service of 90 days or more.

EXTENSION OF ENTITLEMENT TO RESERVISTS

The reported bill would expand eligibility for the Home Loan Guaranty Program to certain members of the Selected Reserve of the Ready Reserve of the armed forces, which includes the National Guard, who have completed a total of at least six years of service. Expansion of the program in this manner responds to changes in the armed forces of this country.

In the report of the Sixth Quadrennial Review of Military Compensation (6th QRMC), it was stated that, with the advent of the All-Volunteer Force, the scope, size and importance of missions assigned to reserve components have increased dramatically. Today, a substantial portion of the manpower and equipment of each of the Services may be found in their reserve components. The armed forces now depend heavily on reservists as a part of a Total Force comprising 1.5 million Ready Reservists in addition to more than 2 million active component members. The importance of reserve components was most recently demonstrated during the Persian Gulf War during which a total of about 228,000 Reservists were ultimately activated in support of Operation Desert Storm. In his address to the Congress on March 6, President Bush declared that "... this victory belongs . . . to the regulars, to the Reserves, to the National Guard. This victory belongs to the finest fighting force this nation has ever known in its history."

The change to afford home loan entitlement to reservists is needed at this time to recognize the expanded responsibilities of the reserves in this Nation's defense. An overwhelming majority of

reservists responded willingly to the call to active duty, but the recent call-up did disrupt lives and in many cases caused real economic hardship. Many reservists will be reevaluating their participation in the reserve components on the basis of their Desert Storm experience. Whether or not members of the guard and reserve continue to serve in the reserve components depends, in part, on the relief and benefits that are made available to them. With the reduction of the active military forces, the reserve components will be relied on to provide an adequate, cost effective Total Force. Hence, incentives to recruit and retain reservists and national guardsmen may become even more important, particularly in light of the personal sacrifices required of recently recalled reservists.

The Montgomery G.I. Bill Act of 1984 (MGIB) extended education benefits to certain reservists. The 6th QRMC reported that since the enactment of the MGIB, there are clear indications that it is having a positive impact on the quality and number of individuals joining the reserves. The analysis maintains that reservists participating in the MGIB are more likely to remain in the reserves than their nonparticipating counterparts. Studies indicated that the continuation rate for MGIB participants is 15.2 percent higher than that for reserve members not participating. It is not unrealistic to expect that the opportunity to participate in the DVA home loan program would also have an effect on the numbers joining and staying in the reserves.

There is another corollary benefit that may be realized from extending the home loan program to reservists. Reservists obtaining loans guaranteed by the Department of Veterans Affairs would be creditworthy. They are, generally, an older, more mature and more stable group with long-time civilian job histories. Many are familiar with the costs and responsibilities of homeownership. Therefore, this group may help to financially stabilize the program through an influx of loan fees with fewer claims to be paid on their behalf.

Currently veterans must pay a loan fee of 1.25 percent of the loan amount to the Department in order to obtain a guaranteed loan. Fees are lower, .75 percent and .50 percent with downpayments of 5 percent and 10 percent respectively. In recognition of the differences between veterans and active duty members of the regular armed forces the fees to be charged reservists would be higher: 2 percent of the loan amount or 1.5 percent with downpayments of at least 5 percent and 1.25 percent with downpayments of 10 percent or more.

ATTORNEY FEES IN CONNECTION WITH LOAN GUARANTY PROCEEDINGS

Statutes governing representation of claimants for veterans benefits have, for over 125 years, imposed limitations on amounts that may be paid to representatives, agents, and attorneys in connection with claims for benefits. The limitation was originally enacted during the Civil War to prevent so-called "pension agents" from employing "sharp practices" and collecting excessive fees simply for filling out applications for pensions. The legislative history and purpose of the attorney fee limitation was thoroughly researched in a paper prepared by the Library of Congress and published by

this committee in 1987. See *Legislative History of the Ten Dollar Attorney Fee limitation in Claims for Veterans Benefits*, Committee on Veterans' Affairs, House Committee Print No. 8, 100th Cong. 1st Sess. (1987). In 1988, Public Law 100-687, the Veterans' Judicial Review Act amended the limitation by providing that *no fee* could be charged "in connection with a proceeding *before the Department of Veterans Affairs* with respect to laws administered by the Department" until after the Board of Veterans' Appeals "first makes a final decision in the case". Testimony presented during committee hearings held in 1986 and 1988 on the existing attorney fee limitation included reference to the VA's interpretation of the scope of the provision and the effect it had on veterans who were indebted to the United States as a result of VA programs.

Congressional intent with respect to limitations on payment of attorneys fees has been less clear in cases involving VA home loan guarantees than those involving veterans' claims for benefits. Following the establishment of the veterans' housing program in 1944, the law was amended to include a general authority for the Secretary to "sue and be sued" in any court of competent jurisdiction with respect to housing loan matters. As to housing matters properly before any such court, it appears that Congress never intended to regulate attorney fees in such matters, which did not pertain to "claims for monetary benefits", the words of the attorney fee limitation in effect when the housing loan program was established.

Subsequent to the modifications of the attorney fee limitation enacted as part of the Veterans' Judicial Review Act, both the U.S. District Court for the Eastern District of Virginia and the VA General Counsel construed the reach of the limitations. In a 1989 case, *Bahnmler v. Derwinski*, 724 F. Supp. 1208 (E.D. Va. 1989), *aff'd* in part, dismissed and vacated in part, 923 F.2d 1085 (4th Cir. 1991), the court held that the fee limitation did not apply in debt collection proceedings outside of the VA's own administrative proceedings. This opinion was quickly adopted in a General Counsel precedent opinion which also interpreted the fee limitation as being inapplicable to proceedings related to the collection of payments made by the VA in the case of a foreclosed mortgage. Conversely, the General Counsel ruled that the limitation does apply to services performed by attorneys seeking administrative relief in the form of a waiver of the indebtedness under 38 U.S.C. 5302 (formerly 3102). Although both the court opinion and the General Counsel opinion are public documents, uncertainty and confusion about the scope of the statute is not uncommon, even among members of the bar.

A veteran confronted with VA efforts to collect a loan guaranty debt can raise several alternative defenses to such efforts (including applying for a retroactive release of liability, asserting State anti-deficiency statutes, or seeking waiver of the debt). However, the existing fee limitation can create an undesirable conflict for the veteran seeking legal assistance. An attorney may charge for services rendered in connection with non-administrative (non-VA) proceedings challenging the VA's right to collect the debt or recover some part thereof, but he or she cannot legally bill the client for any services rendered in an effort to have VA waive the debt through its own administrative process. Given the nature of the

VA home loan guaranty program, and the requirement that lenders who have made such guaranteed loans must avail themselves of state foreclosure proceedings, attorneys called upon to assist veterans in home loan debt collection proceedings must often enter into fee agreements and render substantial services before they are certain what defenses are available to a veteran and which defense is most likely to succeed.

In light of the confusion this may cause, and to avoid the conflict which an attorney inevitably faces when advising a client to pursue waiver of the debt (a service for which a fee cannot legally be charged), the Committee believes a modification to the recently-enacted fee limitation may be the best resolution of this conflict. However, the Committee is very concerned that the advocates of attorney representation in other types of benefits proceedings may misinterpret the Committee's intent in reporting this limited departure from the traditional prohibition on paid representation in administrative proceedings. In this regard, the Committee notes that several major veterans service organizations, which have traditionally provided free representation to veterans seeking waivers of indebtedness, have testified that they would have no objection to this legislative change. Notwithstanding this limited endorsement, given the historically non-adversarial nature of the claims adjudication process, the Committee believes that there are compelling reasons to continue the prohibition on paid representation in other administrative proceedings before the Department, and would look with disfavor on any efforts to expand this limited exception to that prohibition.

The reported bill would permit attorneys to represent veterans and charge a reasonable fee in connection with any waiver or debt collection proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code. It would also require the filing of a fee agreement with the Department, (as is now required when attorneys provide paid representation before the Court of Veterans Appeals). The Committee expects that the Department will review such fee agreements and report to the Congress its findings regarding instances of excessive fees being charged to veterans in such cases.

ADJUSTABLE RATE MORTGAGES

Adjustable rate mortgages (ARMs) have become commonplace in the home loan market. Testimony before the Subcommittee on Housing and Memorial Affairs on May 2, 1991, indicated that the Department of Veterans Affairs is the only major mortgage market participant without the authority to guarantee an ARM. The National Association of Homebuilders and the Paralyzed Veterans of America testified that they believe it is necessary for the Department to provide for the guarantee of ARMs to make the program fully responsive to market developments. Volatile interest rate fluctuations reduce housing activity and adjustable rate mortgages are used most during such periods. Although interest rates have been stable recently, it is very difficult to predict when such volatility may again occur. The Committee believes that a pilot program should be established to determine whether veteran borrow-

ers would benefit from this type of mortgage, which is often the preferred mortgage arrangement of non-veteran borrowers.

All the witnesses at the hearing who testified about ARMs advised that an ARM guaranteed by the Department should be circumscribed, with limits on yearly interest rate increases as well as a maximum cap over the life of the loan. Tailoring an ARM in a manner similar to those insured by the Federal Housing Administration (FHA) was also favorably mentioned by the Mortgage Bankers Association, the National Association of Homebuilders and the Paralyzed Veterans of America. FHA's adjustable rate mortgage program allows interest rates to escalate no more than 1 percent per year with a cap of 5 percent over the life of the loan.

In 1987, the House of Representatives passed H.R. 2672 which included authority for the Department to run a demonstration program on ARMs. However, this legislation was not passed by the Senate. H.R. 5002 which passed the House in 1990 contained a similar provision.

The reported bill would require the Secretary to establish a demonstration ARM program in at least 2 but no more than 10 regional offices for two years, beginning in fiscal year 1993, in a manner similar to FHA's adjustable rate mortgage program. The reported bill would also require the Department to furnish the Congress with a report by December 31, 1994, containing a description of the results of this project and furnishing a yearly report with respect to the default rate.

The Committee wishes to emphasize that this demonstration project is not intended to put veterans in houses they can't afford. Rather, it is simply to test another financing option. If the Secretary determines that the default rate under the FHA program is at an unacceptable rate, the Committee recognizes that the Secretary may find it appropriate to adopt underwriting standards that are stricter than those used by FHA.

WAIVER OF INDEBTEDNESS AND SETTLEMENT OF CLAIMS

The reported bill would clarify that waivers of debts or overpayments shall be treated in the same manner as other veterans benefits for taxation purposes. Legislation exempting veterans benefits from taxation was first reported by the World War Veterans' Committee during World War I, shortly after the first Federal income tax was enacted. Similar provisions have been carried forward to the present; section 5301(a) of title 38, United States Code, provides that all veterans benefits "shall be exempt from taxation." This provision applies to any form of taxation, not just Federal taxation, and legislation concerning this subject has always been a part of this Committee's jurisdiction.

Similarly, it has always been the Congress' intent that the Department afford waiver relief when equitable considerations warrant it. Hearings before the Subcommittee on Housing and Memorial Affairs in the 101st Congress revealed a Department of Veterans' Affairs policy which made it difficult to grant a waiver request if there was even a remote possibility of collecting some part of the indebtedness.

Section 311 of Public Law 101-237, which became effective December 18, 1989, revised the standards under which waivers could be granted in order to overcome administrative interpretations which deprived veterans of the relief which Congress intended to provide. An oversight hearing before the Subcommittee on Housing and Memorial Affairs on March 14, 1991, on the implementation of the changes made by section 311 of Public Law 101-237 indicated that the Department was complying with the intent of the law and had revised its regulations. To illustrate the effect of this new law, the Department testified that in fiscal year 1989, before the law took effect, the Committee on Waivers and Compromises granted 21 percent of waiver requests on compensation, pension, and education overpayments and home loan guaranty debts, whereas 68 percent of the waiver requests had been granted in the first quarter of fiscal year 1991.

A DVA General Counsel opinion dated May 8, 1991, advised the Department that it must report loan guaranty waivers to the Internal Revenue Service pursuant to OMB Circular A-129. This Circular (revised November 25, 1988, page 41), provides that "Agencies shall report to IRS any written-off debt not discharged through bankruptcy . . ." According to the DVA General Counsel opinion, while OMB Circular A-129 may not have the force and effect of law, it does represent "an internal executive branch directive." (citing *Department of the Treasury v. Federal Labor Relations Authority*, U.S., 110 S.Ct. 1623, 1626 (1990).) Department officials and employees are generally bound to follow these policy pronouncements in the absence of a contrary law or other compelling reason. Although the Department of Veterans Affairs has been reporting education, pension and compensation waivers to IRS since 1985, loan guaranty waivers have not been reported. The Department has differentiated between these waivers because in the case of a benefit overpayment waiver, the veteran actually received funds which were subject to waiver, while the loan guaranty debtor may have lost money and the Government funds were paid to the lender, not to the veteran. It is the Committee's view that OMB's efforts to penalize successful waiver applicants by requiring an agency to report the amount waived to the IRS as income is directly contrary to the equitable intention of the statute, which requires the Secretary of Veterans Affairs to waive such amounts if collection would be against "equity and good conscience."

From the time the bill was ordered reported on July 23, 1991, the Committee has attempted to obtain an estimate from the Joint Committee on Taxation of the effect, if any, which section 5 would have on Federal revenue. As of this date, the Committee has not received an official response from that Committee. The Committee appreciates the cooperation and assistance it has received from the staff of the Ways and Means Committee in attempting to obtain this estimate. The Committee regrets that the Joint Committee on Taxation was unable to obtain information necessary to prepare this estimate from the Internal Revenue Service in a timely manner. The Committee believes there would be no significant loss of revenue as the result of enactment of this section.

ENHANCED LOAN ASSET SALE AUTHORITY

The reported bill would permit the Secretary of the Department of Veterans Affairs to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37.

The mortgage loans in question are vendee loans that arise as an incident to the Department's Loan Guaranty Program. On some number of defaulted loans, it is less expensive for the Department to make partial payments on its guaranties and take over the residential properties than to "no-bid", that is—pay the entire guaranty amount and leave the properties with the mortgagees/mortgagors. When the Department acquires properties, it resells them, and a substantial number are sold with purchase money mortgage financing—i.e., with financing provided by the Department. These loans are known as "vendee loans." The Department then sells the vendee loans in the secondary mortgage market.

Loans are pooled, securitized, and then sold—usually three sales per year with an annual volume of about \$800,000,000. The securitization vehicle is a special trust, which issues multiple-class pass-through certificates and elects to be taxed as a Real Estate Mortgage Conduit (REMIC). Outside firms, selected through competitive bidding, assist the Department in setting up and operating each REMIC and in selling the certificates to investors.

The Department already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945 before modern mortgage-backed securities were developed, the Department cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans. This lack of a direct certificate guaranty prevents the Department from obtaining the best pricing on its securitized loans. According to the Department, a certificate guaranty promising timely payment of interest and principal would increase proceeds by decreasing the interest rate or "yield" that must be offered to investors by an estimated 10 basis points (one-tenth of one percent). On a volume of \$800,000,000, this could generate additional proceeds of approximately \$5 million. The Department also indicates that loan sale expenses would decrease by about \$400,000 yearly because a U.S. Government guaranteed security need not be registered with the SEC nor rated as to creditworthiness by commercial rating agencies.

In essence, a guaranteed certificate by the Department would offer the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of Government National Mortgage Association (GNMA) certificates. According to the Department, adding this direct certificate guaranty of timely payment would result in no material increase in risk or cost to the Government.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,

Washington, DC, October 31, 1991.

Hon. G. V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 939, to extend the VA home loan guaranty program to certain members of the Selected Reserves, to authorize a pilot program to guaranty adjustable rate mortgages, and for other purposes, as ordered reported by the House Committee on Veterans' Affairs, July 23, 1991.

This bill would affect direct spending and receipts and therefore would have pay-as-you-go implications under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. Because the bill would affect direct spending and receipts, an estimate is required by clause 8 of House Rule XXI. That estimate will be provided when the Joint Committee on Taxation's estimate of receipts is available.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Enclosure:

1. Bill number: H.R. 939
2. Bill title: None.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs, July 23, 1991.
4. Bill purpose: To extend the VA home loan guaranty program to certain members of the Selected Reserves, to authorize a pilot program to guaranty adjust rate mortgages, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Budget Authority.....	- 5	- 5	- 4	- 6	- 7
Outlays.....	- 5	- 5	- 4	- 6	- 7
Revenues ¹	(See footnote)				

¹ The Joint Committee on Taxation has not yet provided its estimate of the impact of this bill on revenues.

Basis of Estimate

The following section-by-section cost analysis addresses only those sections of the bill that could be expected to have a significant budgetary impact.

SECTION 1. This section would extend eligibility for home loan guarantees to members of the Selected Reserves who have complet-

ed at least 6 years of service in the reserves. The origination fees charged reservists would be somewhat higher than those charged veterans under current law. Reservists making down payments of less than 5 percent would pay a fee of 2 percent of the mortgage principal; those with down payments of 5-10 percent would pay a 1.5 percent fee; and those with down payments of 10 percent or more would pay 1.25 percent.

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Budget Authority.....	- *	- 1	- 1	- 1	- 2
Outlays.....	- *	- 1	- 1	- 1	- 2

* Less than \$500,000.

Because the fees that would be charged reservists are higher than the subsidy cost of VA mortgage guarantees, the loans would have a small negative subsidy, as reflected in the cost table below. The following assumptions and calculations were made in connection with this estimate:

- The total size of the Selected Reserves would remain at around 1,176,000 throughout the projection period.
- Based on data from the *Official Guard and Reserve Manpower Strengths and Statistics*, (RCS: DD-RA(M)1147/1148, FY 1988), it was estimated that 60 percent of the Selected Reserve force has 6 or more years of service.
- According to the same source, 41-42 percent of reserve enlistees have no prior military service. (Reservists with 180 days or more of active duty service prior to enlistment in the reserves, are eligible for home loan benefits under current law.)
- The expected participation of reservists in the program was based on an average participation rate for servicemembers over the last 6 years. Once those with prior military experience are removed from the population, the age distribution of reservists should resemble that of the regular military. Because age is a very significant factor in the likelihood of an individual to purchase a home, and because data on other relevant factors do not exist, servicemember participation was judged to be the best proxy available for reservists' participation. Thus, it was estimated that approximately 7,650 reservists would obtain VA-guaranteed loans each year under this proposal.
- The average value of a loan for which a reservist would obtain a guaranty was assumed to be the same as that projected for veterans.
- There is no data available on the credit worthiness of reservists relative to active duty veterans. It was, therefore, assumed that the default rate of reservists would be the same as that projected for veterans.

SECTION 3. This section would require the VA to conduct a demonstration project in 1993 and 1994 providing guarantees of adjustable rate mortgages (ARMs) in a manner similar to the ARM program of the Federal Housing Administration (FHA).

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Budget Authority.....	0	1	2	0	0
Outlays.....	0	1	2	0	0

The estimate above assumes that the ARM demonstration project would be financed through the Guaranty and Indemnity Program Account. Since the Guaranty and Indemnity Program Account is a mandatory account, spending for the demonstration project would also be mandatory and, therefore, subject to pay-as-you-go procedures.

The estimate above reflects the subsidy cost of the loans guaranteed as part of the demonstration project and is based on the following calculations and assumptions:

- The demonstration project would be conducted in 6 regional offices (ROs). This would be the mid-point of the specified project scope of no less than 2 or more than 10 ROs.

- As there are 59 VA ROs, those participating in the project would represent about 10 percent of the total. It was, therefore, assumed that 10 percent of the total program loan activity would be eligible to obtain a guaranty of an ARM in lieu of a fixed rate mortgage (FRM).

- The language specifies that the VA demonstration project would be operated in a manner similar to the FHA program to insure ARMs. The FHA program has rather conservative requirements for eligible ARMs. For example, no single adjustment in the interest rate of an FHA-insured ARM may be more than one percentage point, and total adjustments over the life of the mortgage may not exceed 5 percentage points. It was assumed that VA-guaranteed ARMs would carry the same restrictions.

- In the conventional mortgage market, ARMs have averaged approximately 27 percent of total originations over the past 5 years. Because of the assumed restrictions on the terms of VA ARMs, and because the demonstration project would not be widely known, it was assumed that only 10 percent of the loan volume in the participating ROs would switch from FRMs to ARMs in 1993 and 15 percent in 1994.

- In addition, it was assumed that some new borrowers who would not have applied for a FRM would apply for guaranteed ARMs. The new loans were estimated to equal 5 percent of the projected loan volume in the participating ROs.

- ARMs have higher default rates than FRMs. According to data from the Federal National Mortgage Association (FNMA), conventional ARMs have delinquency rates that are 100 to 125 percent higher than conventional FRMs (Data on loans terminated for default was not readily available from FNMA.) FHA ARMs, on the other hand, have default rates that are only around 24 percent higher than those of FHA FRMs. The lower default rates of FHA ARMs is likely the result of the tighter restrictions on interest adjustments. Because the VA program would be patterned on the FHA program, it was assumed that default rates for VA ARMs would be 24 percent higher than for VA FRMs.

SECTION 4. This section would authorize the VA to guaranty the timely payment of principal and interest on securities issued in connection with the sales of VA vendee loans.

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Budget Authority.....	- 5	- 5	- 5	- 5	- 5
Outlays.....	- 5	- 5	- 5	- 5	- 5

This section would improve VA's vendee loan sale program by authorizing the agency to guarantee the Real Estate Mortgage Investment Conduit (REMIC) certificates that are sold to investors in connection with VA vendee loan sales. The VA now provides a full-faith-and-credit guaranty on the vendee loans themselves, but current law prohibits the agency from guaranteeing the certificates issued on a pool of guaranteed loans.

The lack of a direct certificate guaranty prevents VA from obtaining the best price on its securitized loans. According to data from VA and the First Boston Corporation—currently VA's lead underwriter—the yield that VA must offer to investors in its securities would fall by between 5 and 15 basis points. (One hundred basis points equal 1 percentage point.) This estimate assumes a decrease in yield of 10 basis points. Such a change in yield would equate to an increase in the price VA receives for loans of slightly more than \$0.06 on every dollar of loans sold. It is estimated that VA will sell between \$750 million and \$800 million in vendee loans each year during the projection period. The increased collections from these sales would reduce the subsidy cost of VA vendee loans.

SECTION 5. This section would exempt from inclusion as income any waiver of or compromise on a debt, overpayment, or claim owed by an eligible beneficiary to the federal government under laws administered by the VA.

Under current law, if outstanding indebtedness is waived, the amount waived must be included in income for federal tax purposes, except: when the waiver occurs in a title 11 bankruptcy case, when the taxpayer is insolvent, or when the waiver is of qualified farm indebtedness (Internal Revenue Code, Section 108). Section 5 would exclude VA waivers from income for tax purposes.

This section would affect federal revenues. The Joint Committee on Taxation, which provides revenue estimates of provisions relating to federal income taxes, has not completed its analysis of this provision.

6. Pay-as-you-go considerations:

The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The bill would have the following pay-as-you-go impact:

(By fiscal years, in millions of dollars)

	1992	1993	1994	1995
Change in Outlays.....	- 5	- 5	- 4	- 6
Change in Receipts ¹	(See footnote)			

¹ The Joint Committee on Taxation has not yet provided its estimate of the impact on receipts.

7. Estimated cost to state and local government: None.
8. Estimate comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: Outlays: K.W. Shepherd (226-2820).
Revenues: Linda Radey (226-2693).
11. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact.

DEPARTMENT VIEWS

The following letters were received from the Department of Veterans Affairs concerning the reported bill:

DEPARTMENT OF VETERANS AFFAIRS
THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 17, 1991.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This will respond to your request for the views of the Department of Veterans Affairs (VA) on H.R. 1384, 102d Congress, a bill "To provide for a demonstration program by the Secretary of Veterans Affairs with respect to adjustable rate mortgages."

For the reasons stated below, VA opposes this measure.

H.R. 1384 would authorize and direct VA to conduct a demonstration program for adjustable rate mortgages (ARMs). The program would be implemented in at least 2 but not more than 10 VA regional offices during Fiscal Years 1992 and 1993. The ARMs offered by this program would be similar to ARMs insured by the Secretary of Housing and Urban Development under section 251 of the National Housing Act.

Currently, VA sets an interest rate for guaranteed loans which is fixed for the life of the loan. VA has consistently opposed ARMs because of difficulties encountered by borrowers in some cases. Although ARMs have become more common in the industry and some of the past difficulties have been remedied, VA continues to have major concerns with this type of mortgage loan. Default rates for ARMs still exceed defaults for fixed rate loans, both in the conventional and FHA markets. The increased defaults resulting from an ARMs program, coupled with increasing borrower defaults attributable to the expected lower appreciation of housing prices, would likely increase Federal costs.

Consequently, we would not favor the introduction of an ARMs program even in a limited pilot program at this time.

In addition to opposing the provisions of H.R. 1384 for substantive reasons, the Administration also opposes this bill on the grounds that it does not include provisions that will offset its increased cost which is considered direct spending for purposes of the "pay-as-you-go" provisions of Title XIII of the Omnibus Reconciliation Act of 1990.

The preliminary estimate of the pay-as-you-go costs of H.R. 1384, prepared on the basis of the Omnibus Budget Reconciliation Act of 1990, is as follows:

Fiscal Year	(\$ Thousands)	(\$ Thousands)	(\$ Thousands)
	Guaranteed Subsidy Cost	Direct Subsidy Cost	Total Subsidy Cost
1992.....	84	0	84
1993.....	66	0	66

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 1384 to the Congress.

Sincerely,

EDWARD J. DERWINSKI,

DEPARTMENT OF VETERANS AFFAIRS
THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 17, 1991.

Hon. G. V. (Sonny) Montgomery,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: This will respond to your request for the views of the Department of Veterans Affairs (VA) on H.R. 939, 102d Congress, a bill "To provide eligibility to members of the Selected Reserve for the veterans home loan program."

For the reasons stated below, VA opposes this measure.

This bill would expand VA home loan guaranty benefits to persons whose only service was in the reserve components of the Armed Forces, including the National Guard. Persons who had at least 6 years total service in the Selected Reserve would be eligible for housing loan benefits. Former and current reservists would pay a higher loan fee than other veterans. For example, a reservist obtaining a home loan with no downpayment would pay a fee of 2 percent of the loan amount, as compared to the current 1.875 percent fee (which will revert to 1.25 percent on October 1 1991, unless amendments made by the Omnibus Budget Reconciliation Act of 1990 are extended) for other veterans obtaining a similar loan.

We do not support an expansion of these housing benefits to Reservists and National Guard members. VA recognizes the significant contribution that the members of the reserve components of

the military, including the National Guard, make to the Nation. We are pleased to note that the recently enacted Public Law 102-25 provides VA home loan eligibility to reservists who were called to service during the Persian Gulf War and served at least 90 days on active duty. However, we believe it is inappropriate to expand this readjustment benefit to persons already in civilian life who did not serve on extended full-time active duty, and whose military service did not limit their ability to finance the purchase of a home.

In addition to opposing the provisions of H.R. 939 for substantive reasons, the Administration also opposes this bill on the grounds that it does not include provisions that will offset its increased cost which is considered direct spending for purposes of the "pay-as-you-go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

The preliminary estimate of the costs of H.R. 939, prepared on the basis of the Omnibus Budget Reconciliation Act of 1990, is as follows:

Fiscal Year	Outlays (\$ Thousands)	Outlays (\$ Thousands)	(\$ Thousands)
	Guaranteed Subsidy Cost	Direct Subsidy Cost	Total Subsidy Cost
1992	16,611	*	16,611
1993	17,823	231	18,054
1994	18,762	659	19,421
1995	19,772	1,338	21,160
1996	20,900	1,869	22,769
Total	93,868	4,147	98,015

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 939 to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

DEPARTMENT OF VETERANS AFFAIRS
THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, July 2, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: There is transmitted herewith the "Veterans' Loan Asset Sale Act of 1991," a draft bill, "To amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The proposed legislation would benefit VA's vendee loan sale program by authorizing the Department to guarantee the REMIC certificates sold to investors when VA's vendee loans are securitized, usually three sales per year with a total annual volume of about \$800 million. VA already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945, long before modern mortgage-backed securities were developed, VA cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans.

Lack of a direct certificate guaranty prevents VA from obtaining the best pricing for its securitized loans. With the proposed legislation, the estimated decrease in yield that will have to be given to investors is estimated to be 10 basis points, which, of course, results in more proceeds to VA and reduced subsidy costs. In addition, SEC and rating agency fees will be avoided. Thus, total additional revenue to VA, based on securitizing \$800 million on vendee loans per year, would result in estimated pay-as-you-go savings of \$21.8 million over the 5-year period FYs 1991-1995. Because VA already provides a 100 percent full faith and credit guaranty on the underlying loans, there will be no material increase in risk to the Government. VA's ability to perform its obligation to make "timely" payments to investors will be assured by the cash reserves that are established for each securitized sale and by the other elements of the REMIC credit structure.

VETERANS' LOAN ASSET SALE ACT OF 1991

The effect of this draft bill on the deficit is:

	Fiscal Years					
	(In millions of dollars)					
	1991	1992	1993	1994	1995	1991-1995
Outlays.....	-1.8*	-5.3	-5.2	-4.9	-4.6	-21.8
Receipts.....	---	---	---	---	---	---

* Assumes enactment prior to August 1, 1991, as it would apply to the next loan sale.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. The "Veterans' Loan Asset Sale Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation to Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

EDWARD J. DERWINSKI.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * *

SUBCHAPTER I—GENERAL

§ 3701. Definitions

(a) * * *

(b) For the purposes of housing loans under this chapter—

(1) * * *

* * * * *

(5)(A) *The term "veteran" also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.*

(B) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code.

* * * * *

§ 3702. Basic entitlement

(a)(1) * * *

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) * * *

* * * * *

(E) *Each veteran described in section 3701(b)(5) of this title.*

* * * *

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3720. Powers of Secretary

(a) * * *

* * * *

(h) *The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of loans and installment contracts secured by real property made in connection with the sale of properties acquired under this chapter.*

* * * *

§ 3725. Guaranty and Indemnity Fund

(a) * * *

* * * *

(c)(1) * * *

(2) Except as provided in paragraph (3) of this subsection, there shall also be credited to the Guaranty and Indemnity Fund—

(A) for each loan (*other than loans described in section 3729(a)(2)(D) of this title*) closed during fiscal year 1990 with respect to which the Guaranty and Indemnity Fund is available, an amount equal to 0.375 percent of the original amount of such loan for each of the fiscal years 1991 and 1992;

(B) for each loan (*other than loans described in section 3729(a)(2)(D) of this title*) closed after fiscal year 1990 with respect to which the Guaranty and Indemnity Fund is available, an amount equal to 0.25 percent of the original amount of such loan for each of the three fiscal years beginning with the fiscal year in which such loan is closed;

* * * *

§ 3729. Loan fee

(a)(1) * * *

(2) Except as provided in paragraph (6) of this subsection, the amount of such fee shall be 1.25 percent of the total loan amount, except that—

(A) * * *

(B) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 3712(a) of this title), or for construction, with respect to which the veteran has made a downpayment of 5 percent or more, but less than 10 percent, of the total purchase price or construction cost, the amount of such fee shall be 0.75 percent of the total loan amount; [and]

(C) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 3712(a) of this title), or for construction, with respect to which the veter-

an has made a downpayment of 10 percent or more of the total purchase price or construction cost, the amount of such fee shall be 0.50 percent of the total loan amount[.]; and

(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

(i) two percent of the total loan amount;

(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

-(II) 1.25 percent of total loan amount if such downpayment is 10 percent or more of such price or cost.

* * * * *

§ 3733. Property management

(a)(1) * * *

* * * * *

(e) Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section, and the amount received from the sale of securities pursuant to the authority under section 3720(h), shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of—

(1) * * *

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * *

§ 5302. Waiver of recovery of claims by the United States

(a) * * *

* * * * *

(f) A waiver under this section of payment of an indebtedness or of recovery of a payment or an overpayment (including interest thereon), and the forgoing of collection of an amount by the United States in the settlement of a claim with respect to any benefit pro-

vided to a veteran or other eligible person under any of the laws administered by the Department, shall be treated as a payment of benefits for the purposes of section 5301(a).

CHAPTER 59—AGENTS AND ATTORNEYS

§ 5904. Recognition of agents and attorneys generally

(a) * * *

(c)(1) **[In]** *Except as provided in paragraph (3), in connection with a proceeding before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.*

(3) *A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.*

SECTION OF THE ACT OF JUNE 13, 1991

An Act To amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, and for other purposes.

SEC. 5. WAIVER OF INDEBTEDNESS.

Section **[3102]** 5302 of title 38, United States Code is amended—

(1) * * *